



SKAGIT COUNTY PUBLIC WORKS DEPARTMENT

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August 17, 2005

Bill Moore
WA State Department of Ecology
Water Quality Program
P.O. Box 47600
Olympia, WA 98504-7600

RE: NPDES Western Washington Phase II Draft Permit Comments

Dear Mr. Moore:

Skagit County appreciates the opportunity to comment on the First Preliminary Draft of the Proposed Municipal Stormwater NPDES General Permit for Western Washington Phase II Small Municipal Separate Stormwater Sewer Systems. Skagit County reviewed the draft document marked Version 6 issued May 16, 2005. Our detailed comments are attached in a separate document.

In addition to the detailed comments there are several general areas of concern we feel must be addressed:

- **2005 Stormwater Manual** - Permittees should not be required to adopt the entire 2005 Stormwater Management Manual for Western Washington by reference alone.
 - Ecology has always maintained the stormwater manual is not a regulatory instrument. All recent versions have stated this and described the manual's role as technical guidance.
 - The scope of NPDES is to require permits for discharge of "pollutants". There is no reference in the permit to controlling flow rates, volumes, or many of the other technical features that are contained in the Stormwater manual.
 - Ecology must ensure wherever the permittee is directed to the Stormwater manual, the language include only the relevant sections of the manual, and not the recommended sections or appendices.
 - Appendix I of this permit needs to be reviewed to ensure all parts referenced in the text body are relevant to the permit and contained within the appendix itself, not somewhere else in the Stormwater manual.
 - Many jurisdictions believe they have a better ability to judge the necessary level of regulation to protect the environment and govern development in their locale than a State agency. It is not Ecology's responsibility to create local land-use rules.
- **Private Property** - The municipal NPDES permit is intended to regulate the operations and functions of municipal stormwater systems.
 - It is beyond the purview of this permit to regulate land-use of private property or the effects on receiving waters of discharges from private property.
 - There are numerous action items in this permit that would require the permittee to trespass on private property to accomplish. The permittees should not have the

- duty to enter private property in pursuit of implementation of this permit, inspections, or testing.
- The conditions of this permit need to be within the compliance ability of the permittees and the regulators.
 - **Presumptive approach** - The NPDES permit is intended to be a narrative program based on using certain best management practices to meet a maximum extent practicable (MEP) compliance standard. In other words, if you take certain actions you are presumed to be in compliance with the permit.
 - Including TMDL fulfillment, as a feature of Phase II compliance, opens the door to jurisdictions being required to meet quantitative, hard number water quality targets to be in compliance with this permit.
 - Language should be added to this permit to insure the compliance standard remains MEP not numeric targets.
 - **Urban vs. Rural standards** - It is clear these standards were written to regulate urban style stormdrain systems (curb, gutter, buried pipe).
 - While the areas covered by the permit may be defined as “urbanized” by the census, many of the stormdrain systems are very much rural in nature.
 - Many of the required standards are inappropriate for rural style drainage systems.
 - **Staffing Requirements** - Implementing as ambitious a program as this permit requires will have a significant impact on the staff and budget of small jurisdictions.
 - Regardless of the EPA statement that permit compliance negates this being an unfunded mandate, this permit will require significant resources to be spent by local governments.
 - Without additional sources of State and Federal funds many small jurisdictions will have no chance at funding the complete program required by this permit.

We wish to express our thanks and appreciation for the opportunity for this review. We look forward to working with you on the implementation of this permit in a way that provides protection to the environment and is attainable by local governments.

Sincerely,

Chal A. Martin, P.E.
Director / County Engineer

CAM/ea